

# Committee on Resources

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## Statement of THE HONORABLE KEN CALVERT

before

The Committee on Resources  
Oversight Field Hearing  
on  
The Silvery Minnow's Impact on New Mexico

September 6, 2003

I commend you, Mr. Chairman, for holding this hearing and appreciate your interest in improving the Endangered Species Act and protecting water rights. I'm pleased to be here in New Mexico with my distinguished friends and colleagues.

As the House Water and Power Subcommittee Chairman, I know firsthand about the role water plays in safeguarding our environment, our cultures and tradition, our food supply and our economy. However, we have often found in the west - and elsewhere in the nation - that in many cases water supplies can't meet growing multi-purpose demands, particularly in times of drought.

For this reason, many communities - like Albuquerque and others - have sought blueprints of certainty in meeting water needs. They assumed that their citizens would get the water they paid for when they created these long-range plans.

They were proven wrong this summer. When the 10th Circuit Court of Appeals ruled that non-native water and longstanding Rio Grande water contracts could be used for environmental regulations that were never before on the table, a shockwave of uncertainty hit the western water world. The ruling primarily means that the Endangered Species Act - for the first time - takes precedence over urban water supplies that never would have been used for silvery minnow uses in the first place.

This ruling essentially ignores our nation's fundamental notion of private property freedoms by exerting federal control over locally controlled water resources. It's little wonder that this precedent makes many uneasy in my region of southern California who are left wondering what else is going to threaten an already uncertain water supply situation on the Colorado River. They have witnessed the Endangered Species impacts on Klamath farmers, then on Albuquerque and Santa Fe urban users, and my region currently has endangered kangaroo rats and Delhi Sands Flower-loving flies, so many wonder who the next target will be.

The Court's opinion also speaks volumes about the state of the Endangered Species Act. Nearly everyone agrees with the need for endangered species protections, but it seems that more money is being spent on litigation and waging battles in the courts than on protecting species. No one ever intended this law to become the full employment act for lawyers and environmental extremists, but I'm concerned that it's going in that direction. It also says that long years of collaboration can be hijacked by someone on the fringe not happy with the initial outcome. It's time for a fresh look at whether the Endangered Species Act can be carried out more effectively in a cooperative and scientific manner. I support the efforts of the New Mexico delegation to bring closure to the silvery minnow issue, but a longer term ESA fix may be necessary. This hearing is a good start in that direction.

I look forward to hearing from today's witnesses and working with my colleagues to resolve these issues before us today.